

least have an opportunity to have this vote sometime in the future. If they are not going to have the recess appointment, this disappears. But I hope we would have that opportunity at the present time. I do not think that is an unreasonable request, if it is the desire of the administration to move ahead with this nominee with a recess appointment, that at least we come back to where we are now and would have some opportunity to express ourselves. We would be giving that up if we just vitiate the whole thing. He could say we are going to go ahead and he is going to appoint him as a recess appointment during the July break or sometime in the August break. That is the dilemma that we are in.

Mr. REID. I have spoken to the majority leader. I hate to be speaking for him here, but he is not here. The majority leader said he has not spoken to anybody about a recess appointment. He doesn't know if they have any intention of doing that. He doesn't know. But he doesn't want to be constrained, so it would be my suggestion we just go ahead at 3:30, then, because doing anything other than that I think puts the majority leader in a real bind. I am willing to put him in a bind but not for anything that is my cause.

I suggest we withdraw the unanimous consent request and go ahead with a vote at 3:30, if people are demanding there be some conditions on taking away the vote. The unanimous consent request, as I understand it, is that the vote would be vitiated and the leader would reset that vote at any time he chose fit. Certainly the distinguished Senators from West Virginia and Massachusetts can talk to the majority leader, if they want to do that, following the vote being vitiated.

But unless there is an agreement on this unanimous consent request, basically that the vote scheduled for 3:30 today be vitiated and we go to the conference report on the emergency supplemental—if that is not the agreement, then I assume we would go to the vote at 3:30 and go to the supplemental at some later time.

Mr. WARNER. Mr. President, it seems to me that we could have the certainty, then, if the vote is to be held, that we could go immediately following the vote to the supplemental.

Mr. REID. That was discussed. I am not ready to do that.

Mr. WARNER. Then I think for the moment that we are confronted with the parliamentary situation whereby there is objection.

Mr. REID. I ask the Chair, what time is the vote set for?

The PRESIDING OFFICER. The vote is set for 2:30, with an hour of debate.

Mr. REID. The reason that is very awkward is because we have Secretary Rumsfeld and Secretary Rice coming here, and to have a knock-down, drag-out debate on this at this time doesn't seem to be very good for the body because it is reported that the President is on the way back from Iraq. I think

we should go ahead with that schedule, which was to vitiate this vote, but we got wound up somehow in recess appointments the majority leader and I have never talked about. As I said to the floor and to the distinguished Senator from Massachusetts, he has not spoken to anybody about a recess appointment.

I ask the Senator from Massachusetts and the Senator from West Virginia: Do we go ahead with the schedule as we have it laid out, that at 2:30 p.m. we start the vote on Stickler, and those who want to be here for the debate on Stickler could do that, and those who want to go to the Rice-Rumsfeld hearing can do that?

Mr. KENNEDY. That is satisfactory.

Mr. REID. There is no unanimous consent request that we come here at 2:30 to start the debate on Stickler, and there will be a vote at 3:30.

The PRESIDING OFFICER. Does the Senator from Virginia withdraw his unanimous consent request?

Mr. WARNER. No. Leave the unanimous consent request there. I understand there is objection.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. The Senator from Massachusetts objects.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 2:30 p.m.

Thereupon, the Senate, at 1:03 p.m., recessed until 2:32 p.m., and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. FRIST. Mr. President, I ask unanimous consent that the scheduled recess today be extended until 3:30 p.m.; further that the cloture vote on the nomination of Richard Stickler be vitiated and that at 3:30 p.m. the Senate proceed to the immediate consideration of the conference report to accompany H.R. 4939, the emergency supplemental appropriations bill.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, reserving the right to object, I thought we talked with the leader about a process and a procedure, of which the leader was agreeable, that we would have a chance—if there is going to be a recess appointment—that we would have an opportunity to go ahead and have a cloture vote prior to that time.

Mr. FRIST. Mr. President, the discussion among the Democratic leadership and Republican leadership was, indeed, that we vitiate the vote today and that at a time that is mutually agreed upon this vote will come back to this body.

Mr. KENNEDY. To this body prior to the recess appointment?

Mr. FRIST. Prior. That is the understanding. And the discussion was—I have had absolutely no conversations with the administration about a recess appointment—

Mr. KENNEDY. Right.

Mr. FRIST. But if there were to be such a recess appointment, that then this vote could come back, would come back at that time.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I thank the leader. We are going to have a very important Thursday signing of the Mine Safety Act. It is a reflection of the good work of our chairman, Senator ENZI, and many others on our Human Resources Committee. It is very good legislation, passed by the House of Representatives, and to be signed by the President. It is going to be enormously important. We look forward to that and hopefully to its effective enforcement.

I thank the leader.

The PRESIDING OFFICER. If there is no objection, without objection, it is so ordered.

Mr. ENZI. Mr. President, I rise today to voice my support for the nomination of Richard M. Stickler to be the Assistant Secretary of Labor for Mine Safety and Health. Mr. Stickler's nomination was referred to the Committee on Health, Education, Labor, and Pensions. On March 8 of this year, the committee reported the nomination favorably out of the committee.

The Senate acted just 2 weeks ago on mine safety legislation which the House passed on Wednesday. It is anticipated that the President will sign this into law expeditiously. It is extremely important for the Mine Safety and Health Administration to have permanent leadership to implement this important mine safety law; therefore, I urge my colleagues to vote in favor of Mr. Stickler's nomination today.

Despite decades of improving safety in our Nation's mines, this year we witnessed a series of tragic accidents in the coal mines of West Virginia and Kentucky. Those tragedies, in part, led to a thorough review of our mine safety laws. The Senate Health, Education, Labor, and Pensions Committee, which I am privileged to chair, and the Subcommittee on Employment and Workplace Safety, chaired by Senator JOHN-ny ISAKSON, conducted extensive hearings and roundtables on the issues related to mine safety. We conducted an exhaustive review of the current Mine Safety and Health Act and met, at length, with representatives from the mining industry, labor, the professional safety community and State and Federal regulators, all in an effort to determine how we could act in a responsible and constructive way to improve workplace safety for our Nation's miners. The result of these collective efforts was the Mine Improvement and New Emergency Response Act. The MINER Act is the first comprehensive